UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

JTH TAX, INC. d/b/a LIBERTY TAX SERVICE,	:	
Plaintiff,	:	
vs.	:	Civil No. 2:07CV170
KENYA WHITAKER, et al.,	:	
Defendants.	:	

ANSWER

Defendants Kenya Whitaker and Easy Software Solutions, by counsel, CARR MALONEY P.C., in answer to the Plaintiff's Complaint, state as follows:

THE PARTIES

1. Defendants are without knowledge or information sufficient to admit or deny the allegations contained in paragraph 1 of Plaintiff's Complaint.

2. Admitted.

PERSONAL JURISDICTION

3. The allegations in paragraph 3 contain legal conclusions to which no response is required.

SUBJECT MATTER JURISDICTION

4. The allegations in paragraph 4 contain legal conclusions to which no response is required.

VENUE

5. The allegations in paragraph 5 contain legal conclusions to which no response is required.

Dockets.Justia.com

FACTS

6. Defendants admit that Whitaker submitted a Franchise Application, and state that the document speaks for itself.

7. Admitted.

8. Admitted.

9. Defendants deny there were any "irregularities" in the processing of tax returns at their Liberty office.

10. Denied.

11. Defendants admit that Mr. Whitaker made the referenced comment, but affirmatively state that he was joking when he said it, and that they did not "outsource" the tax preparation operation to India.

12. Denied.

13. Admit that Mr. Knapp visited the offices on February 5, 2007, but lack knowledge or information to form a belief as to the truth of the remaining allegations in paragraph 13.

14. Denied.

15. Defendants admit they did not let Knapp see the files, but deny the remaining allegations of paragraph 15.

16. Defendants lack knowledge or information to form a belief as to the truth of the matters asserted in paragraph 16.

17. Denied.

18. Defendants admit receiving the referenced letter, but lack knowledge or information to form a belief as to the truth of the remaining allegations in paragraph 18.

19. Denied.

COUNT I

20. Defendants repeat and incorporate their responses to paragraphs 1-19.

21. Defendants are without knowledge or information sufficient to admit or deny the allegations contained in paragraph 21.

22. Paragraph 22 calls for a legal conclusion to which no response is required. To the extent that such a response is required, Defendants deny the allegations.

23. Paragraph 23 calls for a legal conclusion to which no response is required. To the extent that such a response is required, Defendants deny the allegations.

24. Denied.

25. Denied.

26. Paragraph 26 calls for a legal conclusion to which no response is required. To the extent that such a response is required, Defendants deny the allegations.

27. Paragraph 27 calls for a legal conclusion to which no response is required. To the extent that such a response is required, Defendants deny the allegations.

COUNT II

28. Defendants repeat and incorporate their responses to paragraphs 1-27.

29. Paragraph 29 calls for a legal conclusion to which no response is required. To the extent that such a response is required, Defendants deny the allegations.

30. Paragraph 30 calls for a legal conclusion to which no response is required. To the extent that such a response is required, Defendants deny the allegations.

31. Paragraph 31 calls for a legal conclusion to which no response is required. To the extent that such a response is required, Defendants deny the allegations.

32. Denied.

33. Denied.

FIRST DEFENSE

The Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

Plaintiff's claims are barred by the applicable statute of limitations.

THIRD DEFENSE

Defendants state that Plaintiff was the first to breach the Franchise Agreement, thus relieving either Defendants of any liability or requirement to perform under that Agreement.

FOURTH DEFENSE

Plaintiff's claim is barred by the doctrines of collateral estoppel and laches.

FIFTH DEFENSE

Defendants will rely upon all defenses lawfully available to them including, but not limited to, those already asserted herein.

The Defendants, Kenya Whitaker and Easy Software Solutions, respectfully request that the Complaint filed herein against them be dismissed with prejudice, with costs, attorney's fees, and interest as provided by law assessed against the Plaintiff and that the Defendants be granted such other and further relief as this Honorable Court deems just and proper.

KENYA WHITAKER
EASY SOFTWARE SOLUTIONS, LLC

By: /s/ Dennis J. Quinn________
Counsel for Kenya Whitaker and
Easy Software Solutions, LLC

Dennis J. Quinn (VSB 43615)
Colleen E. Durbin (VSB 68119)
Carr Maloney P.C.
1615 L Street, N.W.
Suite 500
Washington, D.C. 20036
(202) 310-5500 – telephone
(202) 310-5555 – fax
djq@carrmaloney.com
ced@carrmaloney.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of August, 2007, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Vanessa M. Szajnoga, Esquire
Corporate Counsel
Liberty Tax Service
1716 Corporate Landing Parkway
Virginia Beach, VA 23454
Vanessa.Szajnoga@libtax.com

/s/ Dennis J. Quinn________
Dennis J. Quinn (VSB 43615)
Colleen E. Durbin (VSB 68119)
Carr Maloney P.C.
1615 L Street, N.W.
Suite 500
Washington, D.C. 20036
(202) 310-5500 – telephone
(202) 310-5555 – fax
djq@carrmaloney.com
ced@carrmaloney.com